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Attorney for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA AT FAIRBANKS**

ROBERT PROBERT; LORETTA E.
PROBERT; GENE GRISSOM;
SANDRA GRISSOM; JOHN GRIMES;
DONNA GRIMES; KENNETH
MCDANIELS; LEONA MCDANIELS;
ERIC CLONINGER; DEBRA
CLONINGER; and LORETTA REES,

Plaintiffs,

vs.

FAMILY CENTERED SERVICES of
ALASKA, INC.; JOHN W. REGITANO;
KATHY CANNONE; SUSZAN DALE;
LONNIE HOVDE; DEBORAH L.
COXON, and ADDITIONAL DOES I to
X, Managerial Employers, Jointly Liable,

Defendants.

Case No. 4:07-CV-000030 RRB

SUPPLEMENTAL EXHIBIT TO MOTION FOR INDICATIVE RULING

Plaintiffs filed a Motion for Indicative Ruling, in the nature of a 62.1 motion, on December 4, 2009, at [Doc. 140](#).

The question in the case is whether defendant FCSA cares for the sick and mentally ill.

The Plaintiffs asked the Court to indicate if it would have considered the exhibits to the 62.1 motion, in support of its ruling that defendant FCSA cares for the sick and the mentally ill, had they been available to the Court at the time of its ruling.

Defendant's opposition was due December 24; and they asked for a continuance to file their opposition through January 4, 2010. Plaintiffs did not oppose this extension.

However, yet and still, defendant FCSA continues to admit the exact facts necessary for FLSA coverage.

Attached hereto is an ad from the December 20, 2009 issue of the Fairbanks Daily News-Miner. [Exhibit A](#). This is an ad by FCSA advertising for Youth Counselors in their Therapeutic Family Homes. The ad describes its family homes thusly:

Family homes provide quality residential care to... youth... that are experiencing mental health and behavioral issues and are at imminent risk of psychiatric placement outside of their community.

Further, FCSA states that, "FCSA staffs these homes with... employees who

provide... therapeutic care....”

In regards to the qualifications for the Youth Counselor position, FCSA suggests that “[t]wo years of experience working with children who experience a mental health disability is strongly preferred.”

The Plaintiffs ask that the Court considers this evidence as well; and indicate to the Ninth Circuit of this evidence, which unequivocally demonstrates that FCSA is primarily engaged in the care of the sick and the mentally ill.

RESPECTFULLY SUBMITTED this 28th day of December 2009 at
Fairbanks, Alaska.

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing
has been served electronically by ECF to the
following attorney(s) and/or parties of the record:

**John Foster Wallace, Colin C. Hampton,
Richard D. Monkman**

Dated: December 28, 2009

By: s/ Kenneth L. Covell
Law Office of Kenneth L. Covell